

Attorney Docket No.: **KUZ-0022**
Inventors: **Ito et al.**
Serial No.: **10/527,710**
Filing Date: **April 22, 2005**
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REMARKS

Claims 1-10 are pending in the instant application.

The rejection of the pending claims as being unpatentable under 35 U.S.C. 103(a) has been maintained. The Examiner suggests that arguments regarding the content of the PIB and SIS are not persuasive as Tsuruda et al. teaches modifying the content of PIB and SIS in order to adjust the adhesive strength and adhesion properties, as desired. The Examiner directs Applicants to the final rejection mailed June 11, 2008.

Applicants respectfully traverse this rejection.

In the final rejection mailed June 11, 2008, the Examiner suggests that Tsuruda et al. discloses the total amount of PIB be in the range of 1-20% by weight (page 21, lines 9-13) and the amount of SIB being in the range of 15-30% by weight (page 20, lines 16-21), thus demonstrating the proportion of the PIB being 8-15% by weight and a ratio of the concentration of the PIB to that of SIB being in the range of from 2:3 to 3:2. The Examiner suggests that it would have been an obvious design choice to one of ordinary skill in the art to modify the amount of the polymers, as desired, in order to adjust the adhesive strength and the

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adhesion properties, as taught by Tsuruda et al. (page 23, line 10 - page 24, line 20).

Applicants respectfully disagree.

As shown in the Table at page 20 of the instant application, the proportion of the polyisobutylene in the adhesive base being 8 to 15 wt.%, and a ratio of a concentration of the polyisobutylene to that of the styrene/isoprene/styrene block copolymer being from 2:3 to 3:2 is very important to the adhesive characteristics of the patch as measured by adhesion, cohesion, adhesion to the skin and remaining of adhesive mass to the skin.

Comparative examples 1-4 outside the claimed proportions of the instant invention, but inside the range disclosed by Tsuruda et al., exhibited poor adhesion and adhesion to the skin and/or defects in cohesion and remaining of adhesive mass to the skin. See page 19 and 20 of the instant specification. The demonstrated excellent adhesion, cohesion, adhesion to the skin and remaining adhesive mass to the skin of adhesive patches of the claimed invention with a proportion of the polyisobutylene in the adhesive base being 8 to 15 wt.%, and a ratio of a concentration of the polyisobutylene to that of the styrene/isoprene/styrene

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block copolymer being from 2:3 to 3:2 is clearly unexpected over teachings of Tsuruda et al.

As all other cited references are silent with respect to the instant claimed proportion and/or ratio of PIB and SIB, these references fail to remedy the deficiencies in the teachings of Tsuruda et al.

MPEP 2144.05 and the case law are clear; Applicants can rebut a *prima facie* case of obviousness based on overlapping ranges by showing the criticality of the claimed range. "The law is replete with cases in which the difference between the claimed invention and the prior art is some range or other variable within the claims. . . . In such a situation, the applicant must show that the particular range is critical, generally by showing that the claimed range achieves unexpected results relative to the prior art range." *In re Woodruff*, 919 F.2d 1575, 16 USPQ2d 1934 (Fed. Cir. 1990). Table 1 at page 20 of the instant application clearly provides such results.

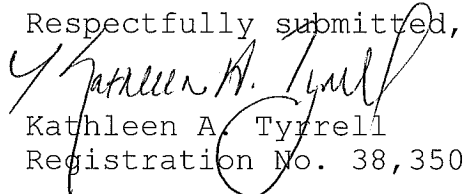
Withdrawal of these rejections under 35 U.S.C. 103(a) is therefore respectfully requested.

Conclusion

Applicants believe that the foregoing comprises a full and complete response to the Office Action of record.

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Accordingly, favorable reconsideration and subsequent allowance of the pending claims is earnestly solicited.

Respectfully submitted,

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